

**VIRGINIA'S PLAN FOR
MONITORING COMPLIANCE
AND
PLANS FOR COMPLIANCE
WITH THE CORE
REQUIREMENTS OF THE
FEDERAL JUVENILE JUSTICE
& DELINQUENCY
PREVENTION ACT**

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PLAN FOR MONITORING COMPLIANCE WITH THE CORE REQUIREMENTS

Virginia's Compliance Monitor works in concert with the Juvenile Justice Specialist to assess the Commonwealth's level of compliance with the JJDP Act and to provide technical assistance and support to localities. Technical assistance for localities includes the development of compliance monitoring policies and oversight of corrective action plans. For information about specific jurisdictions who have or have had compliance issues, see the Compliance Improvement Program Description.

Virginia conducts compliance monitoring activities on a year-round basis. On an annual basis, the Compliance Monitor visits all of Virginia's 25 secure juvenile detention facilities, approximately 25% of Virginia's 72 jails, to include all jails that reported juvenile admissions to the DOC over the preceding year, and 30% of Virginia's local lock-ups.

Annual training regarding the JJDP Act and the *Code of Virginia* is provided by the DCJS Compliance Monitor to justice system professionals such as Court Service Unit Directors, Juvenile and Family Court Judges, Detention Home Superintendents, Sheriffs, police, and other law enforcement personnel.

DCJS annual Juvenile Justice and Delinquency Prevention Conference provides additional educational training opportunities for juvenile justice professionals regarding proper juvenile placement as required by the *Code of Virginia* and JJDP Act.

The Virginia Advisory Committee on Juvenile Justice (formerly the Juvenile Justice and Delinquency Prevention Advisory Committee) has a policy that restricts Title II grant funding for any locality that has demonstrated an unjustifiable pattern of compliance violations. A special category of funding entitled "Compliance Improvement" is made available to these localities. To access these funds, the locality is required to establish a corrective action plan designed to eliminate all future violations, agree to self-reporting of all new violations, and be subject to quarterly on-site compliance monitoring inspections for one year. Quarterly inspection requirements may be lifted after the locality demonstrates that no violations have occurred for a full calendar year.

THE MONITORING UNIVERSE AND CLASSIFICATION OF FACILITIES

Local Lockups; Local and Regional Jails

In 1996, the Department of Corrections assumed responsibility for certifying all adult facilities for holding juveniles in a manner consistent with JJDP Act mandates. Juvenile offenders, by federal and State law, must be separated by sight and sound from adults housed in the same facility. Placement of delinquent youth in jail while awaiting disposition is guided by § 16.1-249 of the *Code*.

There are 72 local and regional jails in Virginia; 15 are certified to house juveniles. Currently, 7 lock-ups in the state are certified to hold juveniles.

Collocated Facilities

In 1996, the General Assembly approved an amendment to the Code of Virginia to allow as a placement for confinement for juveniles “a separate juvenile detention facility” located upon the site of an adult regional facility approved by the Department of Juvenile Justice and certified by the Department of Corrections for the detention of juveniles established by any county, city or any combination thereof constructed after 1994¹.

To develop compliance and regulatory protocols related to collocated facilities, DCJS organized a certification workgroup that included DCJS, DJJ, and DOC. At this point each agency has responsibility for different aspects of the facility certification and monitoring. Aside from the separate standards for DJJ and DOC, there are no specific standards for collocated facilities in Virginia. DCJS has responsibility for assuring compliance with the JJDP Act.

Virginia has five collocated juvenile detention centers, Merrimac Juvenile Detention Center in Williamsburg, Northwestern Regional Juvenile Detention Center in Winchester, Rappahannock Juvenile Center in Stafford, Piedmont Regional Juvenile Detention Center in Farmville and the Blue Ridge Regional Juvenile Detention Home in Charlottesville.

The Culpeper Juvenile Detention Home and Correctional Center is on the site of the Coffeewood Adult Correctional Center Complex. Culpeper Detention Home is the only detention facility in Virginia that is state-operated. OJJDP has communicated to the Commonwealth that this facility is not subject to the collocation requirements because of its location contiguous to an adult correctional facility. These facilities at Culpeper are monitored as a detention home and a juvenile correctional center.

Secure Juvenile Detention Facilities

DJJ has created a Detention Specialist position that, along with the DCJS Compliance Monitor, serves as the liaison between DJJ and local detention facilities. Together, the DJJ Detention Specialist and DCJS Compliance Monitor ensure that new facilities are included in the monitoring universe and technical assistance is provided

For secure detention of youth, there are available 25 secure juvenile detention facilities, 12 commission-operated, 1 state-operated, and 12 locally operated.

Status offenders and non-offenders cannot be held in these facilities more than 24 hours before and 24 hours after an initial court hearing, excluding weekends and holidays.

¹ *Code of Virginia*, §16.1-249.5

All secure juvenile facilities undergo a certification process under the direction of DJJ. This process involves a certification team of state inspectors who, over a three-day period, inspect physical plant, health care, visitation, records, fire safety, and every other part of facility operations. The DCJS Compliance Monitor collaborates with both the DOC and the DJJ certification teams to ensure that the certification processes are in alignment with the requirements of the JJDP Act.

Juvenile Correctional Centers

DJJ now operates seven correctional centers for juveniles committed to state care including the Reception and Diagnostic Center. Barrett Juvenile Correctional Center was closed in 2005. The Reception and Diagnostic Center (RDC) is the intake point for all juveniles committed to DJJ. State law precludes the confinement of status and non-offenders in these facilities. DCJS participates on certification teams, reviews regulations, and monitors Board activity of juvenile correctional facilities.

State Adult Correctional Facilities

The DOC is responsible for the certification and inspection of all adult facilities. The DOC has a separate certification and inspection process for those adult facilities seeking certification to hold juveniles, or to provide a temporary 6-hour hold including lockup and court holding cells as provided for by the *Code of Virginia*. The Compliance Monitor meets with the DOC certification teams to provide technical assistance regarding JJDP mandates.

INSPECTION & ON-SITE MONITORING OF FACILITIES

Virginia has gone beyond the federal requirements by creating a dual system of records and on-site inspection that ensures that all facilities are visited on-site and inspected at least annually.

DCJS reviews the facility standards and certification process of DJJ, the DOC, the Department of Social Services (DSS) and the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). Further, DCJS provides input to DJJ and DOC on proposed regulations and changes in standards. Facilities receiving placements from these agencies (or receiving reimbursement for expenses by these agencies) undergo annual on-site certification inspections. Facility standards are equal to, or exceed, JJDP Act mandates.

During each monitoring cycle, one third of the state's local lock-ups, including all of those reporting juvenile admissions, receive an on-site inspection for the purpose of monitoring compliance with the JJDP Act.

Each year, all secure detention facilities receive on-site inspections for the purpose of compliance monitoring. An annual site visit and review of the Reception and Diagnostic Center records provides an opportunity to monitor all juveniles admitted to DJJ correctional facilities.

Procedures for Uncovering, Investigating & Reporting Compliance Violations

When violations are uncovered through monitoring statistical reports during on-site visits, immediate action results and technical assistance is offered. When other agencies or certification teams uncover violations, the DCJS is notified. DCJS then maintains a close monitoring posture and, depending on the type of violation, provides technical assistance to prevent further violations. DCJS will develop recommendations for de-certification and further action if necessary.

Corrective Action Plan

When a locality fails to achieve full compliance with the requirements of the JJDP Act, any grant funds awarded to that locality must be dedicated to correcting the causes of the compliance violation. In addition the locality is required to submit a corrective action plan that includes monthly compliance tracking and to submit to quarterly on-site inspections.

Role of the State Advisory Group

The Virginia Advisory Committee on Juvenile Justice is involved in monitoring state compliance with all JJDP Act mandates via the review of staff reports, the Three-Year Plan and the annual Compliance Monitoring reports. A compliance update is presented to the Advisory Committee at their meetings by DCJS staff. The Advisory Committee makes at least one on-site visit to a facility within the monitoring universe annually.

DCJS Juvenile Services staff forward pending legislation with potential impact on compliance issues and other juvenile justice matters to members of the Advisory Committee. Through diligence and advocacy, Virginia has established and maintains legislation that is consistent with the provisions of the JJDP Act regarding the confinement of juveniles.

Barriers to Maintaining a Monitoring System.

Virginia has hired a new JJDP Act Compliance Monitor recently. Steps are being taken to overcome the barrier created by the turnover in the Compliance Monitor position. The new Compliance Monitor has received training specifically for compliance monitors at the national OJJDP conference in Washington. Other DCJS staff work closely with the new Monitor to assist with on-the-job training. Assistance and additional formal training will be provided as needed.

DATA COLLECTION AND VERIFICATION

The Department of Corrections' (DOC) Local Inmate Data System (LIDS) is an automated data system used for reporting demographic, offense, admissions and release data for all local jail juvenile and adult populations. The Department of Juvenile Justice's (DJJ) Juvenile Tracking System (JTS) provides offense and demographic information about all juveniles held in secure juvenile detention facilities. The automated DOC and DJJ data systems are used by the Compliance Monitor to conduct monthly desk audits and to provide localities with proactive technical assistance such as identifying the onset of unusual confinement patterns and questionable placements in both juvenile and adult facilities. The Monitor assists in making recommendations to address issues that arise.

Jails

All secure adult facilities must submit bimonthly reports ("Tuesday Reports") indicating the number of adult and juvenile inmates held on a given day. All jails are required to document all adult and juvenile admissions and releases to the State Compensation Board through the DOC Local Inmate Data System (LIDS). Both the "Tuesday Report" and LIDS are monitored by the DCJS Compliance Monitor to ensure that all persons under age 18 are held in accordance with state law and federal regulations.

The monitoring system is structured so that all local and regional jails certified to hold juveniles receive on-site compliance monitoring inspections annually. All jails not certified to hold juveniles receive compliance monitoring inspections at least every three years.

Lockups

Lock-ups certified to hold juveniles are subject to annual on-site compliance monitoring inspections by the DCJS Compliance Monitor in addition to on-site inspections by DJJ and DOC Certification teams. Lockups not certified to hold juveniles receive compliance monitoring inspections at least every three years.

Because lock-ups do not report admissions to DOC there is no formal or uniform method of tracking placements in these facilities. On-site technical assistance at these facilities includes best practices such as the importance of keeping a formal admissions log for accurate tracking of each placement within the facility and conditions of confinement.

Secure Detention Facilities

Secure detention facilities report demographic and offense information on all youth held for any length of time in a secure detention facility through the DJJ automated data system. The automated data systems have expedited the process of uncovering reporting errors or data entry mistakes. In addition, the DCJS

Compliance Monitor reviews the statistical reports or facility records during on-site visits. All potential violations noted during on-site inspection are reviewed further through inspection of the detainee's file at the facility. Violations that are not resolved at the facility are investigated further through the Court Service Unit of the placing jurisdiction. Records reviewed include court records, orders for transportation and other court documents contained in the juvenile's files. This additional review of supplementary information ensures that only true violations are recorded. Additionally, procedural errors can be targeted for technical assistance for Sheriffs, detention home administrators, and court service unit personnel.

Juvenile Correctional Centers

As with secure detention facilities, each correctional facility submits monthly reports detailing all admissions and releases. The Compliance Monitor obtains an annual summary report of this information to identify status or non-offender admissions.

All possible violations noted on admission records are first researched at the facility by inspecting the detainee's file. Any violation that goes unresolved at the facility level is brought to the attention of the Court Service Unit of the placing court. Jurisdictions with verified violations are then contacted and provided technical assistance and educational training regarding the proper placement of juveniles as provided by the *Code of Virginia* and the JJDP Act.

PLAN FOR DEINSTITUTIONALIZATION OF STATUS OFFENDERS

Virginia has enacted legislation which is consistent with Section 223(a)(12)(A) of the JJDP Act. The state has been in compliance with the Act on DSO since FY 1984. Valid Court Order legislation was enacted in July 1988.

Despite prohibitions within the *Code of Virginia*, and federal regulations addressing the deinstitutionalization of status and non-offenders, on occasion violations are recorded.

In Virginia, the offense classification for juveniles accused of possession of alcohol differs from the federal definition of status offense. *Virginia Code* §4.1-305 defines the offense "possession of alcohol" as illegal for any person to whom an alcoholic beverage cannot be sold, making possession of alcohol a Class 1 misdemeanor offense. The penalty authorized for juveniles under §16.1-278.9 is a loss of driving privileges. Additional penalties are a fine and community service if the juvenile is transporting another juvenile.

Federally "a status offense is any violation of law, passed by the state or local legislative body... which would not be a crime if committed by an adult, and which is specifically applicable to youth because of their minority". This definition derives from the Council of State Governments 1974 document, *Status Offenders: A Working Definition*. In a Legal Opinion Letter dated August 30, 1979, John J. Wilson, OJJDP Office of General Counsel concludes, "In sum, it is more consistent with the overall thrust of the Juvenile Justice Act, the existing legislative history and the concept of 'status' as a determinant of proscribed behavior to define an offense that is applicable both to juveniles and a narrow range of young adults as a status offense." This legal opinion has clarified OJJDP's position that a state's law redefining a status offense to a different class of offense cannot be used to redefine an offense for purposes of determining compliance with the JJDP Act.

Although this difference between the Virginia Code and Section 223(a)(12)(A)² of the JJDP Act is of concern, the prescribed penalties in the Virginia Code are specific in nature. The Department of Juvenile Justice instructs court services units not to detain youth on possession of alcohol charges despite the legal status of Class I misdemeanor, due to other criteria of detention requirements.

Legislation that became effective July 1, 1992, (§16.1-247(J)) defines non-secure custody in a manner that is consistent with OJJDP regulations.

In the 2004 Virginia legislative session, legislation was passed that prohibits the commitment of status offenders to the Department of Juvenile Justice (DJJ) Reception and Diagnostic Center. DJJ's administrative practice had been to prohibit such commitments but the *Code of Virginia* had permitted juveniles alleged to be *children in need of services* to be placed in the temporary custody of DJJ.

² 42 U.S.C. 5633.

Compliance violations generally derive from the limited access to alternative residential placements and programs. One of Virginia's Problem Statements addresses the concern with the number of juvenile in secure detention facilities. See the problem statement and program plan for *Providing Alternatives to Detention*.

The DSO Program Area is one of two program areas with funding for Virginia's Young Juvenile Offenders Initiative which has been ongoing since 2002.

ACTION PLAN

Issue	Strategy	Time-Frame
1. Heighten awareness of violations	Disseminate compliance monitoring results to: juvenile court judges, court service unit directors, and detention home superintendents.	Ongoing
	Continue to provide written recognition of localities with no violations.	Ongoing
	Provide technical assistance and training.	Ongoing.
2. Support development of alternative placement practices by court staff.	Provide technical assistance and training to court staff and detention home operators.	Ongoing
	Continue to award JJDP funds to localities for the development of innovative graduated sanctions and intervention programs.	Ongoing
	Provide training at annual Juvenile Justice & Delinquency Prevention Conference.	Annually
3. Reduce violations	Provide proactive technical assistance.	Ongoing.

PLAN FOR SEPARATION OF JUVENILES FROM ADULT OFFENDERS

Virginia has established legislative and operational policy safeguards that prohibit contact between juveniles and adults held in the same facility. The state has maintained compliance with Section 223(a)(13) of the Juvenile Justice and Delinquency Prevention Act since FY 1984.

State law prohibits the placement of a juvenile in any secure adult facility that has not been approved for the detention of juveniles. Sight and sound separation is a requirement for approval. A facility that exhibits a pattern of violations is subject to losing its certification to hold juveniles by the Board of Corrections.

Code of Virginia, §16.1-249 (A5), allows as a place of confinement for juveniles "To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established by any county, city or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Corrections for the holding and detention of juveniles."

Aside from the separate standards for DJJ and DOC, there are no specific standards for collocated facilities in Virginia. Virginia uses a totally separate staff to monitor and supervise residents placed in juvenile facilities. The *Virginia Administrative Code* (6 VAC 35-140-280C) outlines specifically the requirements for those working with juveniles.

A recent internal policy shift at OJJDP concerning juveniles tried and convicted as adults in circuit court (criminal court), but committed to the Department of Juvenile Justice (DJJ) has presented barriers towards achieving compliance. In previous monitoring years, guidance from OJJDP indicated that as long as a person had an uninterrupted stay in a juvenile correctional facility, he or she could remain in the facility along with incarcerated juvenile delinquents until the end of the juvenile court jurisdiction, as determined by the State. Under this guidance, Virginia has been in compliance. However, under current guidance from OJJDP, once individuals who are convicted in circuit court but sentenced to a juvenile correctional facility reach the age of 18.5, they must be separated from incarcerated juvenile delinquents. To achieve compliance with the separation requirement of the JJDP Act, Virginia submitted a plan outlining a timetable for activities that will lead to full adherence to Section 223 (12)(a) of the JJDP Act within 2 years from the submission of the Plan.

ACTION PLAN

Issue	Strategy	Time-Frame
1. Heighten awareness of violations.	Collaborate with the Departments of Juvenile Justice and Corrections to complete and submit a plan for achieving full compliance with the separation requirement.	Complete May 2004
	Disseminate compliance monitoring results to: juvenile court judges, court service unit directors, jail operators, law enforcement agencies, and detention home administrators.	Ongoing
2. Address and implement strategies to reduce violations	Monitor implementation of Compliance Plan.	Ongoing
3. Localities with patterns of violations	Restrict funding to compliance improvement grants only, until compliance is achieved.	Ongoing
4. Address various interpretations of what constitutes sight and sound separation	Collaborate with DOC certification team and provide technical assistance so that the team can assist and inspect using a uniform standard of sight and sound separation.	Ongoing
5. Respond to local and regional request for technical assistance on collocation	DCJS, DOC and DJJ to provide technical assistance and recommend policy and Code revisions and needed.	Ongoing

PLAN FOR REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

Legislation consistent with the provisions and requirements of the JJDP Act regarding jail removal was enacted in Virginia in 1986. As a result, compliance with Section 223 (a)(14) of the JJDP Act pursuant to the policy and criteria for numerical *de minimus* exceptions has been achieved.

There is one exception in Virginia's law prohibiting the placement of juveniles in jails. Section §16.1-249.E of the *Code of Virginia* allows a judge to transfer a juvenile who is 14 years or older from a secure juvenile detention facility to an adult facility if it is determined that his or her presence is a demonstrated threat to the safety or security of other juveniles or staff of the juvenile facility. Under such placements, the separation and supervision requirements for juveniles within an adult facility must be met. Although utilized infrequently, such placements do occur.

The following action plan has been developed.

ACTION PLAN

Issues	Strategies	Time-Frame
1. Heighten awareness of violations.	Disseminate compliance monitoring results to juvenile court judges, court service unit directors, jail administrators, law enforcement agencies, local city and county administrators.	Ongoing
2. Clarify permissible juvenile placements.	Engage state juvenile correctional agency (DJJ) and the DOC in certifying appropriate placement with court staff and facility.	Ongoing
3. Lack of alternative interventions for demonstrated "safety and security" threats in secure detention facilities.	Provide technical assistance and training on alternative intervention strategies for behavior management to detention facility staff.	Ongoing
4. Reduce violations.	Provide pro-active technical assistance.	Ongoing

PLAN FOR REDUCING DISPROPORTIONATE MINORITY CONTACT (DMC)

Changing the problem of disproportionate representation of African American children, particularly African American males, in Virginia's juvenile justice system requires a multifaceted approach. Several of the problems pertinent to this issue have begun to be addressed since the 2003-2005 Three-Year Plan. The lack of qualified legal representation for poor children was identified by the American Bar Association and, in response, the Virginia legislature created the Indigent Defense Commission. The Department of Juvenile Justice has undertaken the Juvenile Detention Alternatives Initiative to find alternatives to detention for children who do not require it. In the long term, both of these initiatives by our partners will reduce the disproportionate representation of poor, African American children in Virginia. DCJS is working with our partners on these and other initiatives to address disproportionate minority representation and to effect change. These are described below.

PROGRESS MADE, 2003-2005 PLAN

The information provided below summarizes yearly accomplishments since the submission of the last Three-Year Plan. Planned activities for the 2006-2008 Plan are described in the following section. As some activities are ongoing, there is overlap. Both sections cover changes to legislation, policies and procedures, and training and information dissemination.

Legislative Changes

Cultural Awareness Training for Police Officers

The Virginia Community Policing Institute provides cultural awareness training to local police departments throughout the State. The 2002 General Assembly passed legislation³ requiring DCJS to publish a policy or guideline to expand the compulsory training standards for police officers to ensure awareness of cultural diversity and the potential for biased policing.

Update for 2004 Plan. The revised Compulsory Minimum Training Standards are available on the DCJS web site at <http://www.dcjs.virginia.gov/StandardsTraining/CompulsoryMinimumTraining/index.cfm>.

Update for 2005 Plan. No change from 2004.

Update for 2006 Plan. The Governor's Preventing Crime in Minority Communities Task Force recommended an annual review of training standards, which were reviewed periodically but not annually. DCJS is now undertaking annual reviews.

³ Va. Code Ann. §9.1-102(40&41).

The model policy on biased-based policing is also reviewed annually.

New for 2004. Appointment of Counsel for Detention Hearings

In the 2004 General Assembly Session, House Bill 600 provided for the appointment and compensation of counsel prior to an initial juvenile detention hearing. Current law provides for such appointment at the detention review hearing and affords the opportunity for a detention review hearing once counsel is appointed. The bill was to be effective July 1, 2005.

Update for 2005 Plan. In the 2005 legislative session, HB2670 modifies the provisions of HB600 so that only those youth charged with felony offenses could not waive representation by an attorney without consultation with an attorney. It will be effective July 1, 2005.

With legislation that provides for counsel earlier in the process, it is expected that fewer juveniles will be detained predispositionally.

Update for 2006 Plan. The legislation has just become effective, so no change is expected yet.

Policies and Procedures

Grantees to Address Disproportionate Minority Representation

DCJS Title II and Title V grants administered through the Juvenile Services Section will continue to require compliance with the four core requirements of the JJDP Act, including addressing disproportionate minority representation. Grantees are asked to ensure that their prevention and intervention programs do not prohibit minority participation. A Notice of Compliance with the Core Requirements has been developed for grant applicants to assess their locality's DMC status in the juvenile justice system if they want to participate in Title II or Title V grant funding. It requires the development of a corrective plan if minorities are overrepresented.

Update for 2004 Plan. For 2005, DMC is a priority area for Title II funding.

Update for 2005 Plan. For 2006, DMC is a priority area for Title II funding.

Update for 2006 Plan. For 2007, DMC is a priority area for Title II funding.

New for 2004: Subcommittees of the Advisory Committee on Juvenile Justice

The Virginia Advisory Committee on Juvenile Justice, formerly the Virginia Juvenile Justice and Delinquency Prevention Advisory Committee, has established a Disproportionate Minority Contact Subcommittee.

The Advisory Committee on Juvenile Justice has a Government Relations Subcommittee which has been active in monitoring and responding to proposed changes that affect children in the juvenile justice system.

Update for 2005 Plan. The DMC subcommittee met twice in 2004 to review trend data and recent accomplishments and to facilitate discussion on initiatives to further reduce minority overrepresentation.

The Government Relations Subcommittee met once about legislation in the 2005 Virginia legislative session pertinent to children in the juvenile justice system and made recommendations to the full Advisory Committee. The Advisory Committee sent its recommendations to the Director, DCJS.

Update for 2006 Plan. The DMC Subcommittee met once in 2005.

The Government Relations Subcommittee has been disbanded because members of the full Committee wanted discussion of individual bills that were before the General Assembly.

New for 2004: Governor's Preventing Crime in Minority Communities Task Force

In November of 2003, Virginia's Governor Warner announced the appointment of a task force to meet with citizens around the State to address the issue of preventing crime in minority communities. The Task Force met once in Richmond in 2003. In 2004, it met four times at Tidewater, Arlington, Roanoke, and again at Richmond. The Task Force is staffed by DCJS personnel.

Update for 2005 Plan. On March 22, 2005, the Task Force released its final report and recommendations⁴.

Update for 2006 Plan. The following recommendations have been implemented.

- a. Youth Courts. The Juvenile Services Section has begun working on a pilot program to develop school-based youth courts in several localities using Challenge funds.
- b. Minority Police Officers. A focus group at the Governor's Public Safety Policy Summit in September 2005 emphasized recruiting and retaining minority officers. Proceedings of the Summit will be shared with the Virginia Association of Commonwealth's Attorneys, the Virginia Association of Chiefs of Policy and the Virginia Sheriff's Association.

Race-Neutral Detention Assessment Instrument

The Department of Juvenile Justice has developed a race-neutral risk assessment instrument for use at intake. Statewide use of the instrument has begun. It is expected that the use of this instrument will reduce the number of total juvenile detention placements, including minority placements.

Update for 2004 Plan. It was hoped that this initiative would reduce the number of minority youth in secure detention. However, the recommended decisions of

⁴ Commonwealth of Virginia (March 22, 2005). The Governor's Preventing Crime in Virginia's Minority Communities Task Force Report.

the instrument are being overridden by Department of Juvenile Justice staff. DJJ has initiated training at Court Service Units to attempt to reduce the number of overrides.

Update for 2005 Plan. As of March 2005, the override rate by DJJ staff has been reduced to 41%.

Update for 2006 Plan. The override rate by DJJ staff has been requested and we are awaiting a response.

Reducing the Number of Children in Secure Detention

DCJS considers the number of children in secure detention overall and the detention of children for probation/parole violations as problems and has identified them in the Problem Statements. As can be seen in the graph at the beginning of the section, many of these children are African American. There are several possible reasons for the great number of children being detained. Parental involvement and supervision of the child may be seen to be inadequate. There may be a lack of alternative graduated sanctions and services within the child's community. Reducing the number of children in secure detention overall and for probation/parole violations may reduce the number and proportion of black juveniles in secure detention. They are more likely to be poor, have inadequate legal representation, and be situated in communities with fewer resources than white children.

DCJS plans to gather data to determine whether children are being held in detention to ensure public safety or for lack of alternatives, lack of adequate representation, or as punishment. For more details about planned activities, see the *Alternatives to Detention* and the *Juvenile Justice System Improvement Program Descriptions*.

Update for 2004 Plan. In the Three-Year Plan, DCJS reported plans to gather data to determine whether children are being held in detention to ensure public safety or for lack of alternatives, lack of adequate representation, or as punishment. Unfortunately, these data are not yet being collected in a consistent manner. Data collection is improving and it is hoped that some of the data will be available in the coming years.

Update for 2005 Plan. In the meantime, the Department of Juvenile Justice has instigated the Juvenile Detention Alternatives Initiative, described below.

Update for 2006 Plan. No change.

Department of Juvenile Justice Juvenile Detention Alternatives Initiative

The Department of Juvenile Justice has undertaken an initiative with funding from the Annie E. Casey Foundation and a DCJS Juvenile Accountability Block Grant to increase the use of alternatives to secure detention. The project is being piloted in 4 secure detention homes and the associated 6 court service unit intake offices. Because lack of local alternatives is reputedly one of the reasons

leading to detention, it is hoped that this initiative will reduce the number of black juveniles in detention.

Update for 2004 Plan. To support this initiative, DCJS awarded DJJ a Juvenile Accountability Block Grant of \$450,000 to allow those pilot localities participating in the Casey initiative to provide alternatives to detention.

Update for 2005 Plan. That grant has been continued for a second year. JABG and Title II funds are supporting detention expeditors in many of the Casey sites.

Update for 2006 Plan. The grant was continued for a third year.

Training and Information Dissemination

Addressing the Lack of Qualified Legal Counsel

The American Bar Association's report concerning the legal representation of juveniles in Virginia⁵ states that the system is uneven and has a disproportionate impact on poor and minority children. DCJS has identified lack of qualified legal representation as a problem in Virginia and included it in the Problem Statements. Lack of access to and representation by qualified legal counsel may lead to more children being detained, particularly African American children.

Update for 2004 Plan. DCJS is in the planning stages of arranging Challenge Grant funding for the Public Defender Commission to train public defender attorneys and attorneys of the private bar about mental health issues for juveniles in the juvenile justice system.

In addition, House Bill 600, described above under *Legislative Change* provides for the appointment and compensation of counsel prior to an initial juvenile detention hearing.

Update for 2005 Plan. DCJS arranged for Challenge Grant funding for the Public Defender Commission to train public defender attorneys and attorneys of the private bar about mental health issues for juveniles in the juvenile justice system. The first Annual Juvenile Defender Summit was held in October 2004 with 185 participants.

In addition, House Bill 600 in 2004 and HB2670 in 2005, described above under *Legislative Change*, provide for the appointment and compensation of counsel prior to an initial juvenile detention hearing.

Update for 2006 Plan. DCJS provided funding to the Indigent Defense Commission for seminars around the state to train juvenile defenders to advocate for release from detention.

⁵ American Bar Association Juvenile Justice Center & Mid-Atlantic Juvenile Defender Center (2002). *Virginia: An Assessment of access to counsel and quality of representation in delinquency proceedings*. Washington, D.C.: American Bar Association

Training of Detention Staff

The DCJS Juvenile Services Compliance Monitor provides training and assistance to local officials and detention staff to ensure that they are aware of the four core requirements of the JJDP Act including the necessity of addressing disproportionate minority confinement.

Update for 2004 Plan. No Change.

Update for 2005 Plan. No Change. This is an ongoing activity.

Update for 2006 Plan. No Change. This is an ongoing activity.

Juvenile Services Section Fact Sheet

The Juvenile Services Section, DCJS, has published a Fact Sheet, *Reducing Minority Overrepresentation in Virginia's Juvenile Justice System*. The Fact sheet describes the problem in Virginia, lists strategies that Virginia has undertaken to reduce the problem, and provides a list of resources for localities. It has been distributed widely across the Commonwealth to professionals involved in the juvenile justice system, promoted at conferences, and is also available online at <http://www.dcjs.state.va.us/juvenile> (click on Publications & Resources). DCJS will continue to promote it. It has already been reprinted.

Update for 2004 Plan. No change.

Update for 2005 Plan. The Fact Sheet was reprinted again in July 2004 to meet demand.

Update for 2006 Plan. No change.

Juvenile Services Section Demographics Web Page

The Juvenile Services Section, DCJS, web page is designed to enable representatives from localities, grantees, and other interested persons to learn about minority representation and overrepresentation in the Virginia juvenile justice system and the national requirements for monitoring disproportionate minority confinement. Ready access to state and local population, intake, and confinement data by race is also provided, along with instructions about how to compute indices comparing juveniles in the justice system. The web site can be accessed through the Juvenile Services Section main page at <http://www.dcjs.state.va.us/juvenile> and then clicking on the *Juvenile Justice System Demographics* menu. Both number and percentage information is provided and the numeric information is depicted visually in graph form automatically. This web site will be updated with current information.

Update for 2004 Plan. The Juvenile Justice Demographics web page was updated with current information in the Summer of 2003. It is accessed frequently. For example, during the month of February, 2004, the Juvenile Justice Demographics web site was accessed 245 times.

Update for 2005 Plan. The JJ Demographics web page continues to be accessed frequently. During the month of February 2005, it had 740 hits, by 288 persons. The average visit length was 12 minutes.

Update for 2006 Plan. The JJ Demographics web page continues to be accessed frequently. During the month of December 2005 (most recent available data), it had 826 hits, by 310 persons. The average visit length was 8 minutes.

Judicial Workshops

DCJS staff presented information about disproportionate minority representation to Virginia juvenile and family court judges at their conference in April 2003.

Update for 2004 Plan. Department of Juvenile Justice staff presented at an August judicial conference regarding DMC.

Update for 2005 Plan. The Virginia Juvenile and Domestic Relations Court judges are planning a training conference in May 2005 to address best practices in DMC and mental health. The training is for judges, prosecutors, and juvenile court administrators. DCJS has participated in planning and funding the conference.

Update for 2006 Plan. DCJS funded national speakers, including a judge, to present at the conference.

Community-Oriented Justice Conference

Department of Juvenile Justice staff will present information about the new intake and secure detention assessment instruments at a workshop at the Community-Oriented Justice Conference, attended by juvenile and criminal justice professionals from across Virginia.

Update for 2004 Plan. Department of Juvenile Justice staff presented information about the new intake and secure detention assessment instruments at a workshop at the Community-Oriented Justice Conference in April 2003, attended by juvenile and criminal justice professionals from across Virginia.

Update for 2005 Plan. The 2004 COJ conference did not include a session addressing DMC. DCJS is not planning a COJ conference in 2005.

Update for 2006 Plan. DCJS did not have a COJ conference in 2005.

Juvenile Justice and Delinquency Prevention Conference

Although the details are not finalized, disproportionate minority representation in the juvenile justice system will be addressed at this conference in June of 2003.

Update for 2004 Plan. Disproportionate minority representation in the juvenile justice system was highlighted at the Juvenile Justice and Delinquency Prevention Conference in June 2003 with a keynote address and a workshop on disproportionate minority representation. The issue will be addressed again at the upcoming conference in June of 2004.

Update for 2005 Plan. At the 2004 conference, Jerrauld Jones, Director of the Department of Juvenile Justice, addressed the conference about DMC.

Update for 2006 Plan. At the 2005 conference, the closing session and a workshop addressed differing cultural values.

DMC REDUCTION PLAN FOR 2006-2008

Legislative Changes

Proposed Study of the Juvenile Justice System

In the 2006 General Assembly Session, a resolution (HJ136) was introduced directing the Virginia State Crime Commission to conduct a study of the Virginia juvenile justice system. The Resolution directs the Commission to focus on recidivism, disproportionate minority contact with the justice system, improving the quality of and access to legal counsel based on the American Bar Association recommendations, accountability in the courts, and diversion. It has passed the House and Senate but has not yet been signed into law.

Counsel for Detention Hearings

a. Timing of Appointment of Counsel

Effective July 1, 2005, counsel must be provided prior to an initial detention hearing. Youth may waive their right to counsel without consulting with an attorney if they have not been charged with felony offenses. Those charged with felonies must consult with an attorney prior to waiving their right to counsel at this stage.

With this new legislation that provides for counsel earlier in the process, it is expected that fewer juveniles will be detained predispositionally.

b. Fees for Counsel

In the 2006 General Assembly Session, House Bills 176 and 1203 were designed to increase the compensation for counsel. Both died in Committee before being passed to the Senate.

Policies and Procedures

The Advisory Committee on Juvenile Justice

The Virginia Advisory Committee on Juvenile Justice (ACJJ) has a Disproportionate Minority Contact Subcommittee. As the ACJJ has many new members and the DCJS has a new DMC Coordinator, it is expected that the committee will be reinvigorated.

The Advisory Committee disbanded the Government Relations Subcommittee as all members of the Committee were interested in participating in discussions about legislation that could affect children in the juvenile justice system. The

ACJJ communicates their positions on legislation of interest to them to the Secretary of Public Safety through the Department of Criminal Justice Services.

Grantees to Address Disproportionate Minority Representation

DCJS Title II and Title V grants administered through the Juvenile Services Section will continue to require compliance with the four core requirements of the JJDP Act, including addressing disproportionate minority representation. Grantees are asked to ensure that their prevention and intervention programs do not prohibit minority participation. A Notice of Compliance with the Core Requirements is sent to grant applicants requesting that they assess their locality's DMC status in the juvenile justice system if they want to participate in Title II or Title V grant funding. It requires the development of a corrective plan if minorities are overrepresented.

One-Time System Improvement Grants

DCJS has provided one-time system improvement grants to three localities (Norfolk, Newport News, and Roanoke) to collect data on disproportionate minority representation in their juvenile justice systems.

Governor's Preventing Crime in Minority Communities Task Force

In November of 2003, Virginia's Governor Warner announced the appointment of a task force to meet with citizens around the State to address the issue of preventing crime in minority communities. It released its final report and recommendations⁶.

The following recommendations have been implemented.

- a. Youth Courts. The Juvenile Services Section has begun working on a pilot program to develop school-based youth courts in several localities using Challenge funds.
- b. A focus group at the Governor's Public Safety Policy Summit in September 2005 emphasized recruiting and retaining minority officers. Proceedings of the Summit will be shared with the Virginia Association of Commonwealth's Attorneys, the Virginia Association of Chiefs of Policy and the Virginia Sheriff's Association.

Department of Juvenile Justice Juvenile Detention Alternatives Initiative

The Department of Juvenile Justice has undertaken an initiative with funding from the Annie E. Casey Foundation and a DCJS Juvenile Accountability Block Grant to increase the use of alternatives to secure detention. The project is being piloted in 4 secure detention homes and the associated 6 court service unit intake offices. An additional site, Norfolk, was added in October 2005. Because

⁶ Commonwealth of Virginia (March 22, 2005). The Governor's Preventing Crime in Virginia's Minority Communities Task Force Report.

lack of local alternatives is reputedly one of the reasons leading to detention, it is hoped that this initiative will reduce the number of black juveniles in detention.

a. DCJS Support of JDAI Initiative. To support this initiative, DCJS awarded DJJ a Juvenile Accountability Block Grant of \$450,000, which began in 2004 to allow those pilot localities participating in the Casey initiative to provide alternatives to detention. The grant was continued in 2005 and 2006.

b. DCJS Title II awards for Detention Expeditors. Several Title II grants have been provided to localities in the JDAI pilot sites for detention.

Training and Information Dissemination

Training Juvenile Counsel

The American Bar Association's report concerning the legal representation of juveniles in Virginia⁷ states that the system is uneven and has a disproportionate impact on poor and minority children. Lack of access to and representation by qualified legal counsel may lead to more children being detained, particularly African American children. DCJS identified lack of qualified legal representation as a priority in its 2003-2005 Plan; it continues to be a priority for the 2006-2008 Plan. We have provided training in several venues.

DCJS provided Challenge Grant funding for the Public Defender Commission in 2004 and is planning funding in 2006 for Juvenile Defender Summits. In 2005, DCJS provided Challenge funding to the Indigent Defense Commission for seminars around the state to train juvenile defenders to advocate for release from detention.

Training of Detention Staff

The DCJS Juvenile Services Compliance Monitor provides training and assistance to local officials and detention staff to ensure that they are aware of the four core requirements of the JJDP Act including the necessity of addressing disproportionate minority confinement.

Cultural Awareness Training for Police Officers

The Governor's Preventing Crime in Minority Communities Task Force recommended that training standards be reviewed annually. Previously, they were reviewed periodically but not necessarily annually. DCJS is now undertaking annual reviews.

DCJS also reviews annually the model policy on biased-based policing.

⁷ American Bar Association Juvenile Justice Center & Mid-Atlantic Juvenile Defender Center (2002). *Virginia: An Assessment of access to counsel and quality of representation in delinquency proceedings*. Washington, D.C.: American Bar Association

Juvenile Services Section Fact Sheet

The Juvenile Services Section DCJS Fact Sheet, *Reducing Minority Overrepresentation in Virginia's Juvenile Justice System* describes the problem in Virginia, lists strategies that Virginia has undertaken to reduce the problem, and provides a list of resources for localities. It has been distributed widely across the Commonwealth to professionals involved in the juvenile justice system, promoted at conferences, and is also available online at <http://www.dcjs.state.va.us/juvenile> (click on Publications & Resources). DCJS will continue to promote it. It has already been reprinted.

Juvenile Services Section Demographics Web Page

The Juvenile Services Section, DCJS, web page is designed to enable representatives from localities, grantees, and other interested persons to learn about minority representation and overrepresentation in the Virginia juvenile justice system and the national requirements for monitoring disproportionate minority confinement. Ready access to state and local population, intake, and confinement data by race is also provided, along with instructions about how to compute indices comparing juveniles in the justice system. The web site can be accessed through the Juvenile Services Section main page at <http://www.dcjs.state.va.us/juvenile> and then clicking on the *Juvenile Justice System Demographics* menu. Both number and percentage information is provided and the numeric information is depicted visually in graph form automatically. This web site will be updated with current information in 2006.

Juvenile Justice and Delinquency Prevention Conference

For the 2006 conference, it is expected that several workshops will include the issue of disproportionate minority representation in the juvenile justice system. The idea is that the issue will be integrated within sessions rather than addressed separately.

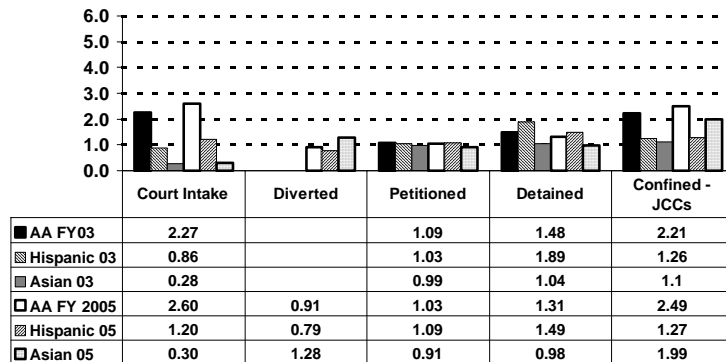
DMC DATA

The relative rate index is the measure of disproportionate minority contact required by the federal Office of Juvenile Justice and Delinquency Prevention. It is computed by determining the rate of juveniles by race per 100,000 juvenile population in the system at various stages. To obtain the relative rate index, that rate for a minority group at a given stage is compared to the rate for the white group at that same stage. Following are the Relative Rate Indices for the State and the three localities with the largest minority population, Fairfax County, the City of Norfolk, and the City of Virginia Beach. Relative rate indices for FY2005 are compared with those for FY2003.

State Data

For the State, the juvenile population aged 10-17 is about 25% African American, 6% Hispanic and 4% Asian.

Comparison of Relative Rate Indices, FY 2003 and 2005, State of Virginia



Data Source: Department of Juvenile Justice
Indices computed by Juvenile Services Section, DCJS

Prepared by: Juvenile Services Section, DCJS.

Comparative data for the State are displayed on the chart. The 2003 indices are the first three bars in each group – African American, Hispanic, and Asian.

At court intake, shown with the bars at the left of the graph, African American children (solid black bar for '03 and solid

white bar for '05) are more than twice as likely to be referred as white children. In fact, the index value has increased slightly between 2003 and 2005. Examination of the numeric data indicates that about 2,400 fewer white children were brought to court service units in Virginia in 2005 than in 2003, a decrease of 9%. Conversely, about 2,200 more African American children were brought to intake, an increase of 10%.

As the chart shows, the diverted and petitioned data all hover around 1.0 which is the comparative value for white children on all graphs in this section. Thus, no racial bias is evident at the diverted and petitioned stages.

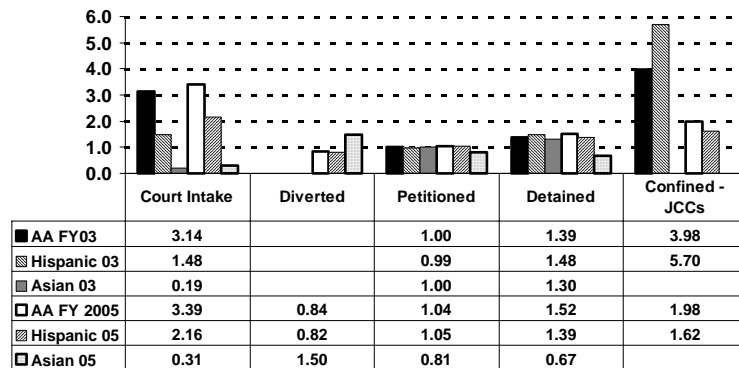
At the detention stage, the indices are lower in 2005 than 2003 for both African American and Hispanic children. This is probably due to shifts in the African American and white juvenile populations. Between 2000, the basis for the 2003 indices, and 2003, the basis for the 2005 indices, the population of African American children aged 10-17 increased by 9.9% compared to the 5.8% increase in the population of white children in that age group.

As at Intake, African Americans are more than twice as likely to be confined in juvenile correctional centers (JCCs) and the index value has increased from 2003 to 2005. Although the numbers of children being confined in juvenile correctional centers has decreased, the decrease is higher for white (-30%) than African American children (-11%). Although Asian children show a high index at the confinement stage, the index is based on 9 children, too few for further discussion.

Fairfax County

Fairfax County's minority juvenile population is much different than that of the State as a whole where the largest minority is African American. In Fairfax County, the juvenile population is approximately 15% Asian, 12% Hispanic, and 10% African American. The most striking

Comparison of Relative Rate Indices, FY 2003 and 2005, Fairfax County

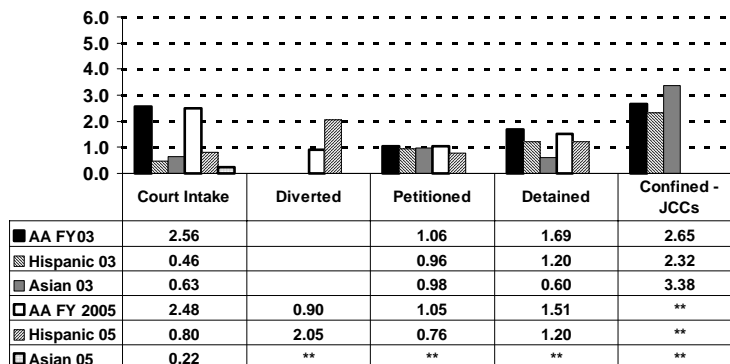


Data Source: Department of Juvenile Justice
Indices computed by Juvenile Services Section, DCJS

Prepared by: Juvenile Services Section, DCJS.

information in this chart is the decrease between 2003 and 2005 in the indices for African Americans and Hispanics at the confinement stage shown on the right of the graph. For African Americans, the index is halved and for Hispanics, it is less than 1/3 of its 2003 value. Like the State as a whole, the decision to petition to court or divert does not seem to be biased, although Asians are somewhat more likely to be diverted than whites in Fairfax County. At the intake stage, at the left of the graph, the indices for African Americans and Hispanics have increased slightly since 2003.

Comparison of Relative Rate Indices, FY 2003 and 2005, City of Norfolk



Data Source: Department of Juvenile Justice
Indices computed by Juvenile Services Section, DCJS
** insufficient cases for analysis

Prepared by: Juvenile Services Section, DCJS.

Norfolk

In Norfolk, the juvenile population is about 60% African American and less than 3% each Hispanic and Asian. The indices for the City of Norfolk look quite promising. As the chart shows, there is still evidence of bias for African American children at the court intake

and detention stages. However, in both instances, there is a small decrease in the indices between 2003 and 2005.

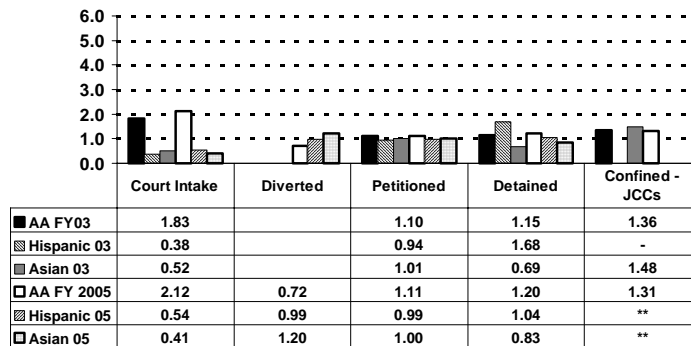
In 2005, there were insufficient cases confined in juvenile correctional centers for the index to be calculated.

Virginia Beach

The juvenile population of Virginia Beach is about 25% African American and about 5% each Hispanic and Asian. The indices for Virginia Beach are good relative to the State and to other localities. African Americans are more likely to be brought to court services unit intake than whites, as shown in the left bars

and they are more likely than white children to be confined in juvenile correctional centers, as shown in the right bars. African American children are about twice as likely as white children to be referred to court intake, but they are only 1.5 times as likely to be confined in correctional centers.

**Comparison of Relative Rate Indices,
FY 2003 and 2005, City of Virginia Beach**



Data Source: Department of Juvenile Justice
Indices computed by Juvenile Services Section, DCJS
** insufficient cases for analysis

Prepared by: Juvenile Services Section, DCJS.